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*Attorneys for Defendant Wal-Mart Stores East, LP*

*(incorrectly named as “Walmart Inc. a/k/a  
Walmart Stores Inc.”)*

DANIEL WALTON,

Plaintiff,

vs.

WALMART INC. A/K/A WALMART  
STORES INC., ARD HAMILTON, LLC,  
HIGHLAND MANAGEMENT, JOHN DOE  
1-10 (fictitiously named), ABC CO. 1-10  
(fictitiously named), and XYZ  
CORPORATIONS 1-10 (fictitiously named  
construction, maintenance, repair, and/or  
property management corporations),

Defendants.

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

Civil Action No.

**NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant Wal-Mart Stores East, LP (hereinafter “Wal-Mart” and incorrectly named as Walmart Inc. a/k/a Walmart Stores Inc.), a Delaware limited partnership with its principal place of business in Bentonville, Arkansas, hereby removes the above-captioned action from the Superior Court of New Jersey, Law Division, Mercer County, to the United States District Court for the District of New Jersey, based upon the following:

1. On or about April 10, 2021, Plaintiff Daniel Walton commenced a civil action by filing a Complaint in the Superior Court of New Jersey, Law Division, Mercer County, entitled DANIEL WALTON -vs- WALMART INC. A/K/A WALMART STORES INC., ARD HAMILTON, LLC, HIGHLAND MANAGEMENT, JOHN DOE 1-10 (fictitiously named), ABC CO. 1-10 (fictitiously named), and XYZ CORPORATIONS 1-10 (fictitiously named construction,

maintenance, repair, and/or property management corporations), Docket No. MER-L-000753-21 (the “Complaint”).

2. On or about April 14, 2021, the Summons and Complaint were served on Wal-Mart.

3. April 14, 2021 was the first date on which Wal-Mart received copies of the Summons and Complaint through service or otherwise.

4. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of the Complaint and Civil Case Information Statement, which constitute all process, pleadings and orders served upon Wal-Mart Stores East are attached hereto as Exhibit “A.”

5. Pursuant to 28 U.S.C. § 1446(b), this Notice is being filed with this Court within thirty (30) days of Wal-Mart’s first receipt “through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.”

6. This Honorable United States District Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 because this is a civil action in which there is complete diversity of citizenship between Plaintiff and the Defendant, and in which the amount in controversy exceeds \$75,000, exclusive of interest and costs, as described below.

7. Based upon the allegations in the Complaint, Plaintiff is a citizen of the State of New Jersey, residing at 208 S. Berlin Road in the Borough of Lindenwold, Camden County, New Jersey.

8. Wal-Mart is the only proper defendant inasmuch as Wal-Mart operates the subject store where the incident at issue allegedly occurred. Wal-Mart is a limited partnership organized under the laws of the State of Delaware with its principal place of business in Bentonville, Arkansas, and is not a citizen of New Jersey. The general partner of Wal-Mart is WSE Management LLC, a limited liability company organized under the laws of the State of Delaware

with its principal place of business in Bentonville, Arkansas. The limited partner of Wal-Mart is WSE Investment, LLC, a limited liability company organized under the laws of the State of Delaware with its principal place of business in Bentonville, Arkansas. The sole member of both WSE Management LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC (formerly known as Wal-Mart Stores East, Inc.), a limited liability company organized under the laws of the State of Arkansas with its principal place of business in Bentonville, Arkansas. The sole member and parent company of Wal-Mart Stores East, LLC is Walmart Inc., a corporation organized under the laws of the State of Delaware with a principal place of business in Bentonville, Arkansas.

9. Neither Wal-Mart nor Walmart Inc. are citizens of the State of New Jersey.

10. Upon information and belief, Defendant Ard Hamilton LLC is a citizen of Pennsylvania with its primary place of business at 1536 Warner Road, Jenkintown, Pennsylvania 19046. Defendant, Highland Management is a citizen of Pennsylvania with its primary place of business at 310 Yorktown Plaza, Elkins Park, Pennsylvania 19027.

11. Diversity of citizenship existed among the parties when the Complaint was filed on or about April 10, 2021. Diversity of citizenship still exists among the parties at the time this Notice of Removal is being filed.

12. The Complaint alleges that on or about January 7, 2020, Plaintiff Daniel Walton was lawfully on the premises of the Walmart store located in Hamilton, New Jersey. Complaint, First Count, ¶ 1. The Complaint also alleges that as a direct and proximate cause of the negligence and carelessness Defendants, “Plaintiff was caused to sustain serious and permanent injuries, has suffered great pain, shock and mental anguish and was and still is incapacitated and will be permanently disabled and has in the past and will in the future be caused to expend substantial sums of money for needed treatment.” *Id.*, ¶ 4, 5.

13. On April 23, 2021, Wal-Mart's Counsel sent Plaintiff's Counsel correspondence requesting they stipulate that Mr. Walton's damages are less than \$75,000.00. (See correspondence attached as Exhibit "B"). On April 29, 2021, Plaintiff's Counsel advised would not agree to limit Plaintiff's damages to \$75,000. (See correspondence from plaintiff's counsel, attached as Exhibit "C").

14. Upon information and belief, Plaintiff Daniel Walton sustained serious and permanent injuries to the right shoulder, right hand, back and right knee requiring surgery. Due to the allegations in the Complaint and the multiple physical areas effected, Plaintiff's claims merit removal.

15. While Wal-Mart denies all liability to Plaintiff and denies that he is entitled to any of the relief sought by the Complaint, based upon the allegations of the Complaint and the injuries alleged, and based upon information and belief, the amount in controversy exceeds the \$75,000 jurisdictional amount under 28 U.S.C. § 1332.

16. Therefore, this civil action is removable to this Court pursuant to 28 U.S.C. §1441.

17. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being submitted for filing with the Clerk of the Superior Court, Law Division, Mercer County and is being served upon Plaintiff.

18. In filing this Notice of Removal, Wal-Mart Stores East does not waive any defects in service of process, venue or personal jurisdiction.

19. For the foregoing reasons, this United States District Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(a).

SCHOEMAN UPDIKE KAUFMAN & GERBER LLP  
*Attorneys for Defendant Wal-Mart Stores East, LP*  
*(incorrectly named as “Walmart Inc. a/k/a Walmart Stores*  
*Inc.”)*



By: \_\_\_\_\_  
Til J. Dallavalle

Dated: May 14, 2021

**LOCAL CIVIL RULE 11.2 VERIFICATION**

Other than the action filed in the Superior Court of New Jersey, Law Division, Mercer County, which is the subject of this Notice of Removal, the matter in controversy, to the best of Defendant Wal-Mart Stores East, LP's knowledge, information and belief, is not the subject of any other action pending in any court, or of any other pending arbitration or administrative proceeding.

SCHOEMAN UPDIKE KAUFMAN & GERBER LLP  
*Attorneys for Defendant Wal-Mart Stores East, LP*  
*(incorrectly named as "Walmart Inc. a/k/a Walmart Stores Inc.")*



By: \_\_\_\_\_

Til J. Dallavalle

Dated: May 14, 2021

**CERTIFICATION OF SERVICE**

I hereby certify that on this date, I caused to be electronically served via ECF, a true and correct copy of the foregoing Notice of Removal on:

Brandon J. Broderick, Esq.  
Brandon J. Broderick, LLC  
65 East Route 4, First Floor  
River Edge, New Jersey 07661  
*Attorneys for Plaintiff*

Pursuant to 28 U.S.C. §1746, I certify under penalty of perjury that the foregoing is true and correct.



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Til J. Dallavalle

Dated: May 14, 2021